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Report of the International Law Commission on the work of its sixty-ninth session

Draft resolution

Report of the International Law Commission on the work of its sixty-ninth session

The General Assembly,

Having considered the report of the International Law Commission on the work of its sixty-ninth session,[1]

Emphasizing the importance of furthering the progressive development and codification of international law as a means of implementing the purposes and principles set forth in the Charter of the United Nations and in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,[2]

Recognizing the desirability of referring legal and drafting questions to the Sixth Committee, including topics that might be submitted to the International Law Commission for closer examination, and of enabling the Sixth Committee and the Commission to enhance further their contribution to the progressive development and codification of international law,

Recalling the need to keep under review those topics of international law which, given their new or renewed interest for the international community, may be suitable for the progressive development and codification of international law and therefore may be included in the future programme of work of the International Law Commission,

Recalling also the role of Member States in submitting proposals for new topics for the consideration of the International Law Commission, and noting in this regard the recommendation of the Commission that such proposals be accompanied by a statement of reasons,

[1] *Official Records of the General Assembly, Seventy-second Session, Supplement No. 10* (A/72/10).
[2] Resolution 2625 (XXV), annex.

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Reaffirming the importance for the successful work of the International Law Commission of the information provided by Member States concerning their views and practice,

Recognizing the importance of the work of the special rapporteurs of the International Law Commission,

Welcoming the holding of the International Law Seminar, and noting with appreciation the voluntary contributions made to the United Nations Trust Fund for the International Law Seminar,

Acknowledging the importance of facilitating the timely publication of the *Yearbook of the International Law Commission* and of eliminating the backlog,

Stressing the usefulness of focusing and structuring the debate on the report of the International Law Commission in the Sixth Committee in such a manner that conditions are provided for concentrated attention to each of the main topics dealt with in the report and for discussions on specific topics,

Wishing to enhance further, in the context of the revitalization of the debate on the report of the International Law Commission, the interaction between the Sixth Committee as a body of governmental representatives and the Commission as a body of independent legal experts, with a view to improving the dialogue between the two bodies,

Welcoming initiatives to hold interactive debates, panel discussions and question time in the Sixth Committee, as envisaged in General Assembly resolution 58/316 of 1 July 2004 on further measures for the revitalization of the work of the Assembly,

1. *Takes note* of the report of the International Law Commission on the work of its sixty-ninth session;[1]

2. *Expresses its appreciation* to the International Law Commission for the work accomplished at its sixty-ninth session, and notes in particular the completion of the first reading of the draft articles on crimes against humanity with the adoption of the entire set of draft articles on the topic;[1]

3. *Recommends* that the International Law Commission continue its work on the topics in its current programme, taking into account the comments and observations of Governments, whether submitted in writing or expressed orally in debates in the Sixth Committee;

4. *Draws the attention* of Governments to the importance for the International Law Commission of having their views by 1 January 2018 on the various aspects of the topics on the agenda of the Commission, in particular on all the specific issues identified in chapter III of its report, regarding:

(a) Protection of the atmosphere;

(b) Provisional application of treaties;

(c) Peremptory norms of general international law (*jus cogens*);

(d) Immunity of State officials from foreign criminal jurisdiction;

(e) Succession of States in respect of State responsibility;

5. *Also draws the attention* of Governments to the importance for the International Law Commission of having their comments and observations by

[1] See *Official Records of the General Assembly, Seventy-second Session, Supplement No. 10* (A/72/10), chap. IV, sect. C.

1 January 2018 on the draft conclusions on the topics "Identification of customary international law" and "Subsequent agreements and subsequent practice in relation to the interpretation of treaties", adopted on first reading by the Commission at its sixty-eighth session;[4]

6. *Takes note* of the decision of the International Law Commission to include the topic "Succession of States in respect of State responsibility" in its programme of work,[5] and encourages the Commission to continue the examination of the topics that are in its long-term programme of work;[6]

7. *Also takes note* of paragraphs 266 and 267 of the report of the International Law Commission and notes, in particular, the inclusion of the topics "General principles of law" and "Evidence before international courts and tribunals" in the long-term programme of work of the Commission,[7] and in this regard encourages the Commission to take into consideration the comments and observations expressed by Governments during the debate in the Sixth Committee;

8. *Takes note with appreciation* of the recommendation of the International Law Commission, contained in paragraphs 279 to 281 of its report, regarding the commemoration of its seventieth anniversary, and encourages States to make voluntary contributions to the trust fund for the Office of Legal Affairs to support the promotion of international law in order to facilitate the commemoration of the seventieth anniversary of the International Law Commission;

9. *Takes note* of paragraph 282 of the report of the International Law Commission, and requests the Secretary-General to continue his efforts to identify concrete options for support for the work of special rapporteurs, additional to those provided under General Assembly resolution 56/272 of 27 March 2002;

10. *Welcomes* the efforts of the International Law Commission to improve its methods of work,[8] and encourages the Commission to continue this practice;

11. *Invites* the International Law Commission to continue to take measures to enhance its efficiency and productivity and to consider making proposals to Member States to that end;

12. *Encourages* the International Law Commission to continue to take cost-saving measures at its future sessions, without prejudice to the efficiency and effectiveness of its work;

13. *Recalls* that the seat of the International Law Commission is at the United Nations Office at Geneva;

14. *Takes note* of paragraph 295 of the report of the International Law Commission, and decides that the next session of the Commission shall be held at United Nations Headquarters in New York from 30 April to 1 June 2018, which will

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[4] *Official Records of the General Assembly, Seventy-first Session, Supplement No. 10* (A/71/10), paras. 60 and 73.

[5] Ibid., *Seventy-second Session, Supplement No. 10* (A/72/10), para. 263.

[6] The following topics are currently in the long-term programme of work of the International Law Commission: "Ownership and protection of wrecks beyond the limits of national maritime jurisdiction", "Jurisdictional immunity of international organizations", "Protection of personal data in transborder flow of information", "Extraterritorial jurisdiction", "The fair and equitable treatment standard in international investment law", "Settlement of international disputes to which international organizations are parties", "General principles of law" and "Evidence before international courts and tribunals".

[7] Ibid., para. 267.

[8] See *Official Records of the General Assembly, Sixty-sixth Session, Supplement No. 10* (A/66/10), paras. 370–388.

coincide with the commemoration of the seventieth anniversary of the Commission, and at the United Nations Office at Geneva from 2 July to 10 August 2018;

15. *Stresses* the desirability of further enhancing the dialogue between the International Law Commission and the Sixth Committee, and in this context encourages, inter alia, the continued practice of informal consultations in the form of discussions between the members of the Sixth Committee and the members of the Commission throughout the year;

16. *Encourages* delegations, during the debate on the report of the International Law Commission, to continue to adhere as far as possible to the structured work programme agreed to by the Sixth Committee and to consider presenting concise and focused statements;

17. *Encourages* Member States to consider being represented at the level of legal adviser during the first week in which the report of the International Law Commission is discussed in the Sixth Committee (International Law Week) to enable high-level discussions on issues of international law;

18. *Requests* the International Law Commission to continue to pay special attention to indicating in its annual report, for each topic, any specific issues on which expressions of views by Governments, either in the Sixth Committee or in written form, would be of particular interest in providing effective guidance for the Commission in its further work;

19. *Takes note* of paragraphs 296 to 301 of the report of the International Law Commission with regard to cooperation and interaction with other bodies, and encourages the Commission to continue the implementation of articles 16 (*e*), 25 and 26 of its statute in order to further strengthen cooperation between the Commission and other bodies concerned with international law, having in mind the usefulness of such cooperation;

20. *Notes* that consulting with national organizations and individual experts concerned with international law may assist Governments in considering whether to make comments and observations on drafts submitted by the International Law Commission and in formulating their comments and observations;

21. *Reaffirms* its previous decisions concerning the indispensable role of the Codification Division of the Office of Legal Affairs of the Secretariat in providing assistance to the International Law Commission, including in the preparation of memorandums and studies on topics on the agenda of the Commission;

22. *Also reaffirms* its previous decisions concerning the documentation and summary records of the International Law Commission;[9]

23. *Takes note* of paragraph 284 of the report of the International Law Commission, recalls the paramount importance of multilingualism as set forth in General Assembly resolution 69/324 of 11 September 2015 on multilingualism, underlines the importance of having the documents of the Commission published in due time in the six official languages of the United Nations, and to this end requests special rapporteurs to submit their reports within the time limits specified by the Secretariat;

24. *Stresses* the need to expedite the preparation of the summary records of the International Law Commission, and welcomes the continuation of the measures taken to streamline the processing of summary records during the sixty-fifth session

[9] See resolutions 32/151, para. 10, and 37/111, para. 5, and all subsequent resolutions on the annual reports of the International Law Commission to the General Assembly. See also *Yearbook of the International Law Commission 1982*, vol. II (Part Two), paras. 267–269 and 271, as well as all subsequent annual reports of the International Law Commission.

of the Commission,[10] which have led to a more rational use of resources, and expresses its satisfaction that the summary records of the Commission, constituting *travaux préparatoires* in the progressive development and codification of international law, will not be subject to arbitrary length restrictions;

25. *Welcomes* the institutionalization of the practice of the Secretariat to include on the website of the International Law Commission the provisional summary records in English and French relating to the work of the Commission;

26. *Also welcomes* the efforts of the Secretariat in seeking to ensure timely and efficient processing of the documents of the International Law Commission and the institutionalization of the experimental measures taken during the sixty-eighth session of the Commission to streamline the editing of those documents;

27. *Takes note* of paragraph 285 of the report of the International Law Commission, underlines the importance of the publications of the Codification Division to the work of the Commission, welcomes in particular the issuance of the ninth edition of *The Work of the International Law Commission* in English, and reiterates its request that the Secretary-General continue to publish *The Work of the International Law Commission* in all six official languages at the beginning of each quinquennium, the *Reports of International Arbitral Awards* in English or French and the *Summaries of the Judgments, Advisory Opinions and Orders of the International Court of Justice* in all six official languages every five years;

28. *Takes note* of paragraph 290 of the report of the International Law Commission, stresses the unique value of the *Yearbook of the International Law Commission*, and requests the Secretary-General to ensure its timely publication in all official languages;

29. *Expresses its appreciation* to Governments that have made voluntary contributions to the trust fund on the backlog relating to the *Yearbook of the International Law Commission*, and encourages further contributions to the trust fund;

30. *Takes note* of paragraph 291 of the report of the International Law Commission, expresses its satisfaction with the remarkable progress achieved in the past few years in reducing the backlog of the *Yearbook of the International Law Commission* in all six languages, welcomes the efforts made by the Division of Conference Management of the United Nations Office at Geneva, especially its Editing Section, in effectively implementing relevant resolutions of the General Assembly calling for the reduction of the backlog, encourages that Division to provide continuous necessary support to the Editing Section in advancing the *Yearbook of the International Law Commission*, and requests that updates on progress made in this respect be provided to the Commission on a regular basis;

31. *Welcomes* the continuous efforts of the Codification Division to maintain and improve the website relating to the work of the International Law Commission;

32. *Expresses the hope* that the International Law Seminar will continue to be held in connection with the sessions of the International Law Commission and that an increasing number of participants representing the principal legal systems of the world, including in particular those from developing countries, will be given the opportunity to attend the Seminar, as well as delegates to the Sixth Committee, and appeals to States to continue to make urgently needed voluntary contributions to the United Nations Trust Fund for the International Law Seminar;

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[10] *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 10* (A/68/10), para. 183.

33. *Requests* the Secretary-General to provide the International Law Seminar with adequate services, including interpretation, as required, and encourages him to continue to consider ways to improve the structure and content of the Seminar;

34. *Underlines* the importance of the records and topical summary of the debate in the Sixth Committee for the deliberations of the International Law Commission, and in this regard requests the Secretary-General to forward to the Commission, for its attention, the records of the debate on the report of the Commission at the seventy-second session of the General Assembly, together with such written statements as delegations may circulate in conjunction with their oral statements, and to prepare and distribute a topical summary of the debate, following established practice;

35. *Requests* the Secretariat to circulate to States, as soon as possible after the conclusion of the session of the International Law Commission, chapter II of its report containing a summary of the work of that session, chapter III containing the specific issues on which the views of Governments would be of particular interest to the Commission and the draft articles adopted on either first or second reading by the Commission;

36. *Also requests* the Secretariat to make the complete report of the International Law Commission available as soon as possible after the conclusion of the session of the Commission for the consideration of Member States with due anticipation and no later than the prescribed time limit for reports in the General Assembly;

37. *Encourages* the International Law Commission to continue to consider ways in which specific issues on which the views of Governments would be of particular interest to the Commission could be framed so as to help Governments to have a better appreciation of the issues on which responses are required;

38. *Recommends* that the debate on the report of the International Law Commission at the seventy-third session of the General Assembly commence on [to be determined].